IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

Moti Lal Vs. State and ors.

SB CRIMINAL MISC.PETITION NO.255/2002
under Section 482 Cr.P.C.

Date of Order :- **5/9/2006.**

P R E S E N T
HON'BLE MR.JUSTICE HARBANS LAL

None present for the petitioner.
Mr. Arun Sharma PP for the State.

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BY THE COURT

This petition under Section 482 Cr.P.C. seeks quashing of the order dated 24.8.2001 passed by the learned Chief Judicial Magistrate, Jaipur Distt. Jaipur whereby proceedings as against non-petitioner Nos.2 to 5 have been dropped.

The relevant facts are that complainant Moti Lal filed a complaint against five persons on 5/3/1999 for offences under Sections 420, 468 471, 482, 34 and 120-B IPC which was forwarded under Section 156(3) Cr.P.C. to the SHO PS Amer for investigation. After investigation, the police filed negative final report but the learned court below took cognizance on 1/12/1999 against respondent four persons for offences under Sections 420, 467, 468 and 120-B IPC. The accused persons appeared in the said court and moved an application on 18/8/2000 under Section 195 Cr.P.C. stating that the complainant has filed a civil suit for cancellation of the alleged forged sale-deed in the court of learned District Judge and the alleged forged sale-deed has been filed there. So, the criminal case against the petitioners can only be instituted on the basis of a complaint filed by the court and not otherwise which application was allowed on 24/8/2001 and the proceedings were dropped against non-petitioners No.2 to 5. Hence, this petition.

Since the petitioner has not put in appearance, I have heard learned Public Prosecutor for the State and have perused the impugned order as well as the relevant record myself.

Indeed, unless and untill it is decided by the learned District &Sessions Judge that the allegedly forged sale-deed is infact a forged document, no further proceedings on its basis can be said to be justified. As per the averments made in the complaint, allegedly forged sale-deed is signed by Phoolchand. The case of the complainant appears to be that he was signatory of the sale-deed i.e. Phoolchand was of unsound mine on the date on which the sale-deed was executed by him. So, prima-facie it cannot be said that the sale-deed is a forged document as alleged. Whether the sale-deed was genuine or forged will be decided by the concerned District & Sessions Judge before whom the suit filed by the complainant is pending. So, the order passed by the learned court below cannot be found fault with.

As such, I do not find it a case fit for admission and no interference in the impugned order in exercise of the inherent powers of this Court under Section 482 Cr.P.C. is called for.

Accordingly, this petition under Section 482 Cr.P.C. is hereby dismissed.

(HARBANS LAL), J.

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